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OFFICE OF PETITIONS

In re Application of	:	
Mark E. Anderson et al.	:	
Application No. 10/693,660	:	
Filed: October 24, 2003	:	DECISION ON PETITION
Attorney Docket Number: MEA-0201-C2	:	UNDER 37 C.F.R. §1.181
Title: METHOD AND APPARATUS FOR	:	
CREATING A PATHWAY IN AN ANIMAL	:	

This is a decision on the petition filed on March 20, 2005 under 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn. A supplement to this petition was received on January 2, 2006. The Office regrets the delay in issuing this decision.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed July 13, 2004, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on October 14, 2004. A Notice of Abandonment was mailed on February 24, 2005.

In the original petition, Petitioner asserted that he was in communication with the Examiner around the time of the mailing of the non-final Office action, and was verbally informed by the same that Petitioner was not obligated to respond to the Office action. Pursuant to 37 C.F.R. §1.2, no attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

With the supplemental petition, Petitioner has asserted that the Office action was mailed to the wrong address. It is noted that a Revocation of Power of Attorney with new Power of Attorney and Change of Correspondence Address was received in the Office along with a Preliminary

Amendment on July 13, 2004, the same day on which the Office action was mailed¹. However, it is noted that Petitioner has not stated that the notice was never received. As such, it is not clear if Petitioner was in possession of the Office action via the forwarding of the same.

As such, the showing in the instant petition is not sufficient to withdraw the holding of abandonment. On renewed petition, Petitioner will need to meet the requirements of Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), as discussed in MPEP §711.03(c).

As such, this petition must be **DISMISSED**.

Any response to this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The response should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.181(a)," although Petitioner may also wish to consider concurrently filing a petition under 37 C.F.R. §§1.137(a) and/or (b).

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanowski, and may be submitted by mail², hand-delivery³, or facsimile⁴.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



Paul Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

¹ Pursuant to MPEP §402.05, revocation of the power of attorney becomes effective on the date that the revocation is received in the Office.

² Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

³ Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

⁴ (571) 273-8300- please note this is a central facsimile number.